Supreme Court, U.S.
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No. ____

In the

Supreme Court of the United States

TRUDY GRIFFIN,

Petitioner,

v.

DARRELL HARDRICK,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. DID THE COURT OF APPEALS FOR THE SIXTH CIRCUIT MISINTERPRET THIS COURT'S DECISION IN SCOTT V. HARRIS?

2. SHOULD THE EXISTENCE OF DIFFERENT INTERPRETATIONS OF GENUINE MATERIAL FACTS BY FEDERAL JUDGES ON AN APPELLATE COURT PRECLUDE UPHOLDING A GRANTING OF SUMMARY JUDGMENT BY A DISTRICT COURT?

PARTIES TO THE PROCEEDINGS

Petitioner is a citizen of the State of Tennessee who at the time mentioned in this Petition was a pre-trial detainee at the Criminal Justice Center of the Metropolitan Government of Nashville and Davidson County, Tennessee.

Respondent is a citizen of the State of Tennessee who at the time mentioned in this Petition was a Correctional Officer, employed by the Davidson County Tennessee Sheriff's Department assigned to the Criminal Justice Center.

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Petitioner respectfully petitions for a Writ of Certiorari to review the Judgment of the Sixth Circuit Court of Appeals in this case.

OPINIONS BELOW

The Sixth Circuit Opinion (Appendix A) is reported at Griffin v. Hardwick, 604 F.3d 949 (6th Cir. 2010). The District Court Opinion (Appendix B) has not been reported.

STATEMENT OF JURISDICTION

The Judgment of the Sixth Circuit was entered on May 13, 2010. The Court of Appeals entered an Order denying a timely petition for rehearing on June 16, 2010. (Appendix C)

The Jurisdiction of this Court is involved under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the Seventh and Fourteenth Amendments to the Constitution of the United States of America.

The Seventh Amendment states in pertinent part:

> In suits at Common Law, where the value in controversy shall exceed Twenty Dollars, the right to be tried by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any Court of the United States, that accordance to the Rules of Common Law.

The Fourteenth Amendment states in pertinent part:

> No State shall rule or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction from equal protection of the laws.

STATEMENT OF THE CASE

A. Facts of the Case

On August 20, 2005, the Petitioner, Trudy Griffin had accompanied her son while he picked up his children at the children's maternal grandmother's home. Griffin's son's ex-wife had obtained a restraining order against him. When Griffin and her son arrived at the home, the ex-wife called the police. Once the police arrived, Griffin and one of the officers got into a verbal argument. Griffin was arrested and handcuffed. Griffin was placed in the back of one of the officer's patrol cars and transported to the Metropolitan Criminal Justice Center [CJC]. During the transport, Griffin sustained some bruising to her arms and back. (T.R. 26 at 1) Griffin was booked and placed into a cell.

While in the CJC, Griffin asked an officer on the staff if she could go to the nurse's station for treatment of her arm bruise. This request was granted. Griffin walked down a hall to talk to a nurse. At the nurse's station she complained about her back and demanded to be transported to the hospital. Her request was

denied and she began to argue loudly with the nurse. The Respondent, Darrell Hardrick, observed this behavior. Hardrick apprehended Griffin and threatened her with words she "was going to live in his hell" and that she "was his bitch." Griffin then attempted to walk away from Hardrick and the nurse's station because she was scared by the threats Hardrick had made. She turned to go back to a nearby holding cell. As she began to walk away, Hardrick grabbed Griffin's right arm. Griffin pulled her arm away telling him to "watch her arm." As Griffin walked away another officer, Pamela Rutledge, took hold of her left arm, while Hardrick took a hold of her right arm. Griffin did not resist either officer. Then suddenly, and without warning, Hardrick intentionally tripped Griffin causing Rutledge to fall on top of her breaking Griffin's leg. After falling to the floor another officer, who was standing close by, told Griffin her leg was not broken and proceeded to drag her to another holding cell. Griffin claimed her rights guaranteed her under the Fourteenth Amendment of the United States Constitution were violated by the Defendant Hardrick.

The entire incident was caught on video tape. (Docket Entry No. 11, Ex. 5 at 15:08:45-15:09:01)

B. Opinions Below

The District Court, after viewing the tape of the incident, held that a reasonable jury could not conclude that Hardrick acted in a sufficiently wanton manner. This decision was based on the District Court's interpretation of what the tape showed. (Docket Entry No. 31, pp. 9-11)

The Court of Appeals upheld the District Court's decision based upon two members of the panel's interpretation of what the video tape showed. (App. A., p. 3)

However, one member of the panel dissented. This Judge's dissention was based upon her interpretation of what the video showed. (App. A., p. 12)

All of the Honorable Judges who ruled in this case made their rulings based upon a factual determination.

REASON FOR GRANTING THE WRIT

I.

THE DECISION OF THE COURT OF APPEALS CONFLICTS WITH THE DECISION OF THE SUPREME COURT

The Court of Appeals' decision directly conflicts with this Court's decision in Scott v. Harris, 550 U.S. 372, 380-81, 127 S.Ct. 1769 (2007). In Scott this Court reiterated that at the summary judgment stage, facts must be viewed in the light more favorable to the non-moving party, if there is a genuine dispute as to those facts. If the facts of a case come from a video, unless those facts are clearly portrayed, they are entitled to an interpretation most favorable to the non-moving party. Scott, 550 U.S. at 380. In the case at bar, Federal Judges are not in complete agreement that the facts depicted in the video blatantly contradict Griffin's testimony so that no reasonable jury would believe her. If Federal Judges, as reasonable people, can disagree on what the facts in the video show, a

jury made up of reasonable people could also disagree on what the video shows.

Mrs. Griffin, as a citizen, should be able to rely on the Second Amendment to the United States Constitution, which guarantees her a trial before a jury of her peers. Summary judgment is a method approved to dispose of cases where there are not genuine factual or legal issues in dispute for a jury to consider. But where such facts exist as in this case, juries should judge those facts, not Judges. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-587, 106 S.Ct. 1349 (1986) Anderson v. Liberty Lobby Inc., 477 U.S. 242, 247-248, 106 S.Ct. 2505 (1986)

II.

THE QUESTION PRESENTED IS IMPORTANT

Today, more frequently, incidents which are the basis for cases brought pursuant to civil right violations, are being prosecuted based on video and DVD evidence. If this Court's decision in Scott is to be applied correctly by the Appellate Courts, differences in interpretation of the facts of a case by Federal Judges at the Appellate level should, at the summary judgment stage of case, preclude the upholding of summary judgment decisions at the District Court level.

CONCLUSION

For the reasons set forth above, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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